

CHAPTER 2-000 REQUIREMENTS FOR A MAINTENANCE PAYMENT FOR A DEPARTMENT WARD

2-001 Considerations for Payment: The following elements must be considered for all Department wards:

1. Definition of a ward (see 479 NAC 2-001.01);
2. Service plan (see 479 NAC 2-001.02);
3. Application (see 479 NAC 2-001.03);
4. Residence (see 479 NAC 2-001.04);
5. Plan for self-support (see 479 NAC 2-001.05);
6. Social Security number (see 479 NAC 2-001.06);
7. Child support (see 479 NAC 2-001.07);
8. Resources (see 479 NAC 2-001.08);
9. Income (see 479 NAC 2-001.09);
10. Receipt of other assistance (see 479 NAC 2-001.11); and

The Nebraska Department of Social Services is responsible for providing maintenance payments for Department wards.

Family Support Funds are available to prevent the removal of a ward from his/her home or to allow his/her return to the home.

2-001.01 Definition of a Ward

2-001.01A Department Ward: A child may become a Department ward by means of a -

1. Judicial determination;
2. Voluntary relinquishment;
3. Voluntary placement; or
4. Law enforcement pickup (not to exceed 48 hours).

2-001.01A1 Judicial Determination: A child becomes a Department ward when s/he is committed to the custody of the Nebraska Department of Social Services by means of a court order entered by a court of competent jurisdiction. The date of commitment to the Department is the date stated in the court order granting custody to the Nebraska Department of Social Services.

2-001.01A2 Voluntary Relinquishment: A child becomes a Department ward when his/her parent or legal guardian voluntarily relinquishes custody to the Department. This is accomplished by means of a signed Form DSS-58, "Relinquishment of Child by Parents." The relinquishment is valid only if it is accepted by the Department. The designated adoption staff at the local office sends a copy of the acceptance letter to the local office worker. The relinquishment then becomes effective with the date Form DSS-5B was signed.

{Effective 9/20/95}

2-001.01A3 Voluntary Placement: A child becomes a Department ward if the parent(s) or legal guardian(s) completes and signs Form DSS-0857, "Voluntary Placement Agreement." The placement is valid only if it is accepted by the Department. A copy is forwarded to the IM worker. While the agreement is in effect, the Department is responsible for the child's care to the extent provided in the agreement.

The legal status of a parent or guardian is not affected by a "Voluntary Placement Agreement." The parent or guardian may withdraw the agreement at any time.

If a parent contributes to the cost of care, the worker shall forward the payment along with Form FA-62, "Maintenance Assistance Cancellation/Refund Transmittal," to Finance and Accounting, Central Office.

2-001.01A3a Time Limits: A copy of the agreement, Form CWI-10, and FCPAY is submitted to the eligibility worker if there is more than one worker for the child. Payment may be made for a voluntary placement for a maximum of six months.

{Effective 9/20/95}

2-001.01A4 Law Enforcement Pickup: Any law enforcement official who takes a child who is not a ward of the Nebraska Department of Social Services into temporary custody for the child's protection may deliver the child to the Department. The worker may make payment via Form DAS-02-09 for the temporary placement (48 hours or less) of the child. The payment rate is determined by the type of placement.

If the Department is granted custody beyond 48 hours, the worker shall determine the child's eligibility for foster care payments. Eligibility begins with the date of pickup.

2-001.01A5 Emergency Shelter Care: A child is eligible for payment of emergency shelter care upon entering emergency custody. This is an initial placement and not a change of placement for a child already in foster care. Emergency shelter care may be provided in a licensed foster home or a group-type setting.

Payment for a child in emergency shelter care may be made only if NDSS is given custody under one of the following:

1. There is a law enforcement pickup in effect;
2. There is a properly executed detention order from a court;
3. There is a properly executed voluntary placement agreement in effect;
4. The child is a current ward of the Department.

The parent(s) should pay according to his/her ability as an incentive to ensure continued acceptance of parental responsibility. Department funds are used to make up the difference if the parent(s) cannot pay the full amount.

{Effective 9/20/95}

2-001.01A5a Maximum Continuous Days: Emergency shelter care is limited to 30 days. No payment can be made for this service beyond 30 days without a written exception from the Service Area Protection and Safety Administrator or designee. This exception must be approved on a form designated by the Department.

{Effective 02/23/04}

2-001.02 Service Plan Information: A service plan is required for all cases.

2-001.03 Application Forms: See 479-000-328 for the form that constitutes the application for assistance and the application procedure. IM-18 FC is used for a ward who is applying for his/her child (see 479 NAC 2-002.02A).

2-001.04 Residence: A ward is considered a resident as long as s/he is under the jurisdiction of a Nebraska court or is a ward of the Department by relinquishment of parental rights. A ward retains Nebraska residence even if s/he is placed in another state as long as the ward is under the jurisdiction of a Nebraska court. For regulations on runaways, see 479 NAC 2-002.07.

2-001.04A Placement in an Out-of-State Institution: If a state arranges for a ward to be placed in an institution located in another state, the state making the placement is responsible for the maintenance payment for the ward.

2-001.04B Continuation of Foster Care (FC) While Absent From Nebraska: The Department may not deny assistance because a ward under the jurisdiction of a Nebraska court has not resided in the state for a specified period. It also may not terminate a resident's eligibility because of that ward's absence from the state, unless another state has determined that the ward is a resident there for assistance purposes.

A Department ward who is IV-E eligible and is living in another state is eligible for Medicaid coverage from the state in which she or he resides. The protection and safety worker is responsible to determine if it is in the child's best interest to retain Nebraska Medicaid coverage or receive coverage from the resident state. If the decision is that coverage should be from the resident state, the eligibility worker must complete the appropriate form and send it to the Department's designated ICAMA/COBRA Coordinator for processing. See 479-000-304 for procedures.

{Effective 02/23/04}

2-001.05 Plan for Independent Living: A ward age 16 or older who is not a full-time student attending an educational or training program must have a plan for independent living. The protection and safety worker develops the plan with the ward. See 479 NAC 2-001.09A for the treatment of income.

Employment First services are available to the wards.

2-001.05A Full-Time Student: A full-time student must have a school schedule that is equal to a full-time curriculum for the school s/he is attending.

2-001.05B Continued Enrollment: The worker must consider enrollment as continued through normal periods of class attendance, vacation, and recess unless the student graduates, drops out, is suspended or expelled, or does not intend to register for the next normal school term (excluding summer school).

2-001.05C Effective Birthdate if Information Is Incomplete: When birth information is incomplete, a birthdate is designated as follows:

1. If the year but not the month is known, July is used; or
2. If the day of the month is not known, the 15th is used.

2-001.05D Verification of Age: The ward's age must be verified. If the ward is otherwise eligible, assistance is not delayed, denied, or discontinued while verification of the ward's age is being obtained. See 479-000-300 for sources of verification.

2-001.06 Social Security Number (SSN): The worker must complete Form SS-5 if:

1. The ward does not have an SSN; or
2. The Social Security Administration, through the Numident exchange, is unable to verify the SSN furnished by the ward.

If the ward is otherwise eligible, assistance is not delayed, denied, or discontinued pending the verification or assignment of an SSN.

2-001.07 Child Support

2-001.07A Referral to the Child Support Enforcement Unit: The worker makes a referral to the IV-D unit no later than two working days after the payment case is opened. When no support has been ordered, the IV-D unit attempts to get an order for support.

The worker makes a referral on each parent. A copy of all court orders must be forwarded to CSE. The worker must forward any financial information to CSEU within two days of receipt.

2-001.07A1 Exception to Referral: A referral is not made to the IV-D unit when:

1. A child is placed in foster care as a result of a voluntary placement; or
Note: If a voluntary placement results in a court-ordered placement, the case is referred to the IV-D unit.
2. Parental rights have been terminated.

2-001.07A2 Termination of Parental Rights: If a parent voluntarily relinquishes parental rights or a court orders termination of parental rights after the case has been referred to IV-D, the protection and safety worker forwards a copy of the court order or Form DSS-58A, "Relinquishment of a Child by Parents," and acceptance letter to the eligibility worker. The eligibility worker forwards a copy of the court order or relinquishment and acceptance letter to the IV-D worker.

2-001.07B Opportunity to Claim Good Cause

2-001.07B1 Eligibility Worker's Responsibilities if Good Cause Claimed: If the protection and safety worker claims good cause, the eligibility worker forwards a copy of Form IM-5FC to the IV-D unit.

2-001.07C Termination of Assignment

2-001.07C1 Partial Termination: A partial termination of assignment is automatically transmitted by the Central Office to the appropriate clerk of the district court when:

1. The Child Support Enforcement Unit has been notified that an order for child support has been vacated or terminated; or
2. A case has been closed or the assistance grant has been zeroed.

2-001.07C2 Final Termination: A final termination of assignment automatically transmitted by the Central Office to the appropriate clerk of the district court when the assigned child support debt is satisfied.

2-001.08 Resources: The total equity value of available non-exempt resources of the ward is determined and compared with the established maximum for available resources which the ward may own and still receive a payment from the Department. If the ward's available resources exceed the established maximum, payment is made from the resources.

The following are examples of resources:

1. Cash on hand;
2. Cash in savings or checking accounts;
3. Stocks;
4. Bonds;
5. Certificates of deposit;
6. Investments;
7. Collectable unpaid notes or loans;
8. Promissory notes;
9. Mortgages;
10. Land contracts;
11. Land leases;
12. Revocable burial funds;
13. Trust or guardianship funds;
14. Cash value of insurance policies;
15. Real estate;
16. Trailer houses;
17. Burial spaces;
18. Life estates;
19. Farm and business equipment;
20. Livestock;
21. Poultry and crops;
22. Household goods and other personal effects; and
23. Federal and state tax refunds.

{Effective 9/20/95}

2-001.08A Verification of Resources of the Ward: The worker must verify and document in the case record all resources. Verification of resources consists of but is not limited to the following information:

1. A description of the type of resource to include account or policy number(s), legal descriptions (for property), etc.;
2. The location of the resource (i.e., name and address of the bank, insurance company, etc.);
3. Current value of the resource, encumbrances against the resource, and the resulting equity value;
4. Description of current ownership; and
5. Source of verification and the date the verification is obtained.

If the ward has a guardian, the worker may use the guardian's report to the court for verification. The guardian's report applies only to the period covered by the report. The worker must follow regular verification procedures if there is no guardian's report or the report does not coincide with the date of review.

The worker must also note any additional information that may affect resource eligibility.

2-001.08B Definition of Available Resources: For the determination of payment or medical coverage, available resources include cash or other liquid assets or any type of real or personal property or interest in property that is actually available to the ward and may be converted into cash to be used for support and maintenance.

2-001.08B1 Unavailability of Resource: Regardless of the terms of ownership, if it can be documented in the case record that the resource is unavailable to the ward, the value of that resource is not used. The worker must consider the feasibility of the responsible person taking legal action to make the resource available. If the worker determines that legal action can be taken, the worker must allow the responsible person 60 days to initiate legal action. After 60 days, if the responsible person has not initiated legal action, the worker must contact the Legal Services Division.

For trust, conservatorship, or guardianship funds, see 479 NAC 2-001.08G1a and 2-001.08G1b.

In evaluating the availability of benefit funds, such as funds raised by a benefit dance or auction, the worker must determine the purpose of the funds and if the ward has access to them. If the client cannot access the funds to pay normal maintenance needs, the funds are not considered available.

The worker must determine a reasonable period of unavailability based on the circumstances of the case. The worker must monitor the status of the resource.

2-001.08B2 Excluded Resources: Disregarded income is also disregarded as a resource unless there is regulation stating otherwise. The following resources are excluded in determining the amount of available resources:

1. Clothing;
2. Certain trusts (including guardianships) and conservatorships set up for the ward (see 479 NAC 2-001.08G1b);
3. Certain life estates in real property;
4. Irrevocable burial trusts up to \$3,000 per individual and the interest if irrevocable (see 468 NAC 2-008.07A3a);
5. Proceeds of an insurance policy that is irrevocably assigned for the purpose of burial of the ward (see 468 NAC 2-008.07A3b);
6. Payments from the Indian Claims Commission;
7. One motor vehicle;
8. U.S. savings bonds (excluded for the initial six-month mandatory retention period);
9. The cash value of life insurance policies; and
10. An Individual Development Account (an account set up for postsecondary education, purchase of a client's first home, or establishment of a business).

{Effective 02/23/04}

The worth of resources, both available and excluded, is determined on the basis of their equity.

For any of these funds to be excluded as a resource, they must be segregated in a separate account or recorded separately so that they can be identified. If the funds are not in a separate account or recorded separately, the worker must allow the responsible person 30 days from notification to identify each source of funds. After 30 days the resource is included in the resource limit if the funds are not in a segregated account. Several excludable resources may be combined in a single account. See 479 NAC 2-001.08H for more information on the resource limit.

{Effective 02/23/04}

2-001.08C Determination of Ownership of Resources: A resource which appears on record in the name of a ward must be considered belonging to the ward.

2-001.08C1 Jointly Owned Resources: When a ward has a jointly owned resource that is considered available, the worker must use the guidelines in the following regulations.

2-001.08C1a Resources Owned With Other Clients: If a ward owns a resource with another client who is on categorical assistance, the worker must divide the value of the resource by the number of owners, regardless of the terms of ownership. The appropriate value is counted for each unit.

2-001.08C1b Resources Owned With Non-Clients: If a ward owns a resource with an individual who is not receiving categorical assistance, the worker must determine the appropriate value to be assigned to the ward in accordance with the following regulations.

2-001.08C1b(1) General Rule: As a general rule, the words and/or or appearing on a title or other legal contract denote joint tenancy. This means that either owner could sign and turn the resource to cash without the other; therefore, the total resource is considered available to either owner.

The term and generally refers to "tenancy in common." This means that each owner holds an undivided interest in the resource without rights of survivorship to the other owner(s). Only the proportionate share based on the number of owners of the resource is available to each owner.

If the worker substantiates that the ward is not the true owner of a resource, it is permissible to allow the responsible person to remove the ward's name from the title of ownership in order to reflect true ownership. The responsible person is allowed 60 days to make this change; if the change is not made, the worker must refer the case to the Legal Services Division.

2-001.08C1b(1)(a) Real Property: Regardless of the terms of ownership of real estate, only the proportionate share is counted as a resource.

2-001.08C1b(1)(a)[1] Real Estate: The worker must verify ownership of real estate through records in the offices of the register of deeds or county clerk. The worker must verify the terms on which property is held in cases of joint ownership. Records of the court have information in regard to estates which have not been settled or which are in probate. The worker must consult the records of the court if the property has come to the holder as a part of an estate; if by joint purchase, the facts will appear in the record of the deed.

2-001.08C1b(1)(b) Bank Accounts: The worker must verify the terms of the account with the bank. If any person on the account is able to withdraw the total amount, the full amount of the account is considered the ward's. If all signatures are required to withdraw the money, the proportionate share must be counted toward the ward.

If the responsible person verifies that none of the money belongs to the ward, the responsible person must be allowed 60 days to remove the ward's name from the account. The responsible person must provide proof of the change. After the ward's name is removed from the bank account, the money is not considered in the ward's resources. If the ward's name is not removed in 60 days, the worker must refer the case to the Legal Services Division. The money is not counted in the ward's resources.

If a portion is the ward's, the worker must notify the ward of the requirement to put the money in a separate account.

2-001.08D Consideration of Relative Responsibility: When a client (i.e., a spouse or parent) has relative responsibility for a client in another assistance unit and the responsible relative owns the resource(s), the worker must divide the value by the number of units to determine the amount to be counted to each. An AABD/MA or SDP/MA couple is considered one unit.

Exception: If the responsible relative receives SSI, none of the value of the resource is considered to the other unit(s).

When a client (i.e., a spouse or parent) has relative responsibility for a client in another assistance unit and both clients own the resource, regulations in 479 NAC 2-001.08C1a are followed and the resource is divided by the number of owners only. This meets the requirements of relative responsibility.

2-001.08E Inheritance: When a ward receives property through inheritance, verified payment of debts or obligations of the deceased are subtracted from the settlement. The balance is considered a resource. If the remainder is placed in a trust fund, see 479 NAC 2-001.08G1b.

2-001.08F Value and Equity: Equity is the actual value of property (the price at which it could be sold) less the total of encumbrances against it (mortgages, mechanic's liens, other liens and taxes, and estimated selling expenses).

If the encumbrances against the property equal or exceed the price for which the property could be sold, the client has no equity and the property is not an available resource.

2-001.08F1 Determination of Value: The worker may use public tax records to determine the sale value of a resource. If there is a question as to the accuracy of the sale value determined by tax records, the local worker must contact a real estate agent, or other appropriate individual.

2-001.08G Types of Resources: Resources may be divided into two categories: liquid and non-liquid.

2-001.08G1 Liquid Resources: Liquid resources are assets that are in cash or financial instruments which are convertible to cash. They include resources such as:

1. Cash on hand;
2. Cash in savings or checking accounts;
3. Certificates of deposit;
4. Stocks;
5. Bonds;
6. Investments;
7. Collectable unpaid notes or loans;
8. Promissory notes;
9. Mortgages;
10. Land contracts;
11. Land leases;
12. Revocable burial funds;
13. Trust or guardianship funds; and
14. Other similar properties.

For further explanation of liquid resources, see 468 NAC 2-008.07A ff.

2-001.08G1a Trust, Guardianship, or Conservatorship Funds: The worker must determine if the trust, guardianship, or conservatorship funds are available for the ward's use. If the ward has a guardian or conservator, the worker must contact him/her. If the guardian or conservator refuses access to the funds, the worker, with supervisory approval, must refer the case to the Central Office, Legal Services Division.

2-001.08G2 Non-Liquid Resources: Non-liquid resources are tangible properties which need to be sold if they are to be used for the maintenance of the client. They include all properties not classified as liquid resources, such as:

1. Real estate; and
2. Household goods and other personal effects.

For further explanation of non-liquid resources, see 468 NAC 2-008.07B ff.

2-001.08G2a Goods and Personal Effects: Goods and personal effects of a moderate value are exempt. Goods and personal effects include clothing, jewelry, items of personal care, stereos, bicycles, etc.

2-001.08H Maximum Available Resources: The established maximum for available resources (real and personal property) which the ward may own and still receive payment from the Department is \$10,000.

For the resource level for NMAP, see 479 NAC 4-007.03.

According to Neb. Rev. Stat., sec. 43-907, if a Department ward is over the resource limit, the ward's excess resources must be used for his/her maintenance needs. If excess resources are not made available, the Legal Services Division determines if legal action is warranted. The Department continues to make payment.

Once resources have accumulated to the \$10,000 limit, the ward's resources are used for the ward's needs (see 479 NAC 2-001.09).

{Effective 02/23/04}

2-001.09 Income: When a child is made a ward of the Department and is placed in out of home care, all unearned income is disregarded until the child has accumulated resources of \$1,000. Once resources of \$1,000 have been accumulated, income of a ward is treated according to the following regulations.

Note: Once resources have been allowed to accumulate to the maximum, all countable unearned income is used toward the needs of the ward even if the Guardianship Account or total available resources drop below \$1,000 due to other expenditures for personal items for the ward.

{Effective 6/8/98}

2-001.09A Earned Income: Earned income of a ward age 18 or younger is disregarded unless the ward is in an independent living situation.

Earned income of a ward in an independent living situation is counted, regardless of the ward's full or part-time school attendance.

Earned income is money received from wages, tips, salary, commissions, profits from activities in which an individual is engaged as a self-employed person or as an employee, or items of need received at no cost in lieu of wages.

Earned income also includes earnings over a period of time for which settlement is made at one given time, as in the instance of farm crops or poultry. Earnings so received are prorated for the same number of ensuing months as was included in the earning period.

{Effective 9/20/95}

2-001.09A1 Work Allowance: A \$90 work allowance is subtracted from the earned income of a ward in independent living.

{Effective 9/20/95}

2-001.09B Unearned Income: Unearned income is any cash benefit that is not the direct result of labor or service performed by the individual as an employee or a self-employed person. Unearned income includes, but is not limited to:

1. Retirement, Survivors, and Disability Insurance (RSDI) under the Social Security Act;
2. Supplemental Security Income (SSI);
3. Railroad Retirement;
4. Veteran's or military service benefits;
5. Unemployment compensation or disability insurance benefits;
6. Disability benefits paid by the employer (this does not include sick leave);
7. Worker's compensation;
8. Child support;
9. Voluntary contributions;
10. Gifts;
11. Lease income;
12. Annuities; and
13. Pensions, or returns from investments or securities in which the individual is not actively engaged.

2-001.09B1 RSDI, SSI, or VA Benefits: When a Department ward is receiving benefits, such as RSDI, SSI, or VA, the Department is usually made representative payee. When the youth is discharged as a Department ward, the payee must be changed if the Department has been receiving the benefit. The eligibility worker forwards Form PS-0866 to Finance and Accounting, Central Office. The worker must notify the Social Security Administration or Veterans Administration of the ward's discharge and advise the responsible person or the ward (if age 19) to apply as payee for the benefits at the nearest Social Security or Veterans Administration Office.

At the time of discharge if the Department has a guardianship fund on behalf of a ward, see 479 NAC 2-006.01.

{Effective 9/20/95}

2-001.09B1a Benefits for 18 Year Olds: When a ward reaches age 18, RSDI and SSI benefits are paid directly to the ward unless s/he has been determined legally incompetent. The ward is then responsible for all or a portion of payment to the foster parent or child caring agency.

2-001.09C Lump Sum Benefits: When a ward receives a nonrecurring payment, the lump sum is deposited in the ward's account and the Department is reimbursed for past and/or current maintenance from the account. If the lump sum is not countable income, the worker sends Form IM-6FC to Finance and Accounting, Central Office, to notify them that it is not used for reimbursement. For availability of a resource, see 479 NAC 2-001.08B1.

2-001.09C1 Insurance Settlements: When a ward is a beneficiary of life insurance or receives property through inheritance, verified payment of debts or obligations of the deceased are subtracted from the settlement.

The worker must document in the case record the availability of settlement or inheritance funds to the ward.

When a ward receives an insurance settlement or other lump sum, the worker deducts from the lump sum any bills relating to the cause of the settlement that the ward is obligated to pay.

2-001.09C2 Accumulated Benefit Payments: Generally an accumulated benefit payment of RSDI is paid to the Department if the ward is age 17 or younger. If the ward is age 18 or older, the payment is made to the ward. In that case, the accumulated payment is considered income in the month in which it is received or reported. The balance remaining after consideration of the ward's needs for a particular month is considered an available resource in the subsequent month.

2-001.10 Receipt of Other Assistance: A ward must not receive assistance in two categorical units at the same time. This does not preclude the client of another type of assistance from being the payee for a foster care payment made on behalf of a ward in that client's care. A ward may also be the payee for his/her ADC or AABD child.

If there is a choice of programs, the worker should use funds in the following order: IV-E first and non-IV-E second. If the ward is placed in the home of a specified relative, the relative has the choice of receiving ADC or a foster care payment. The ADC grant must not be supplemented with non-IV-E funds unless a ward is in his/her parent's home and the parent is receiving ADC and would be unable to keep the ward without special assistance (see 479-000-307).

2-001.11 Computation of Payment: Except for wards in independent living, the worker computes payment using the ward's income from all sources. If the ward is eligible for a grant payment, s/he is also eligible for medical assistance without a separate application or budget computation.

Provisions in the following material govern the computation of payment. The payment is computed by subtracting the child's countable income from the child's needs. This figure is compared to the standard. The payment is the lower of the figures. When the Department is the recipient of the child's unearned income, the Department reimburses itself from the child's account. If the ward is responsible for the payment to the foster parent or child caring agency and does not make the payment within five days from the date specified on the service plan, the Department issues a payment by manual payroll (see PAF 9-24).

The worker computes payment for a ward in an independent living situation on Form IM-26FC. See PAF 9-29 for instructions on computing the budget.

{Effective 02/23/04}

2-001.11A Treatment of Income: The worker determines the ward's prospective eligibility from the ward's anticipated income and circumstances using the ward's (or the ward's representative's) declaration and any available verification. If a ward reports beginning employment, verification is provided by the ward or obtained by the worker. Verification consists of the date the employment began, anticipated hours, rate of pay, pay periods, and when the first check will be received. If employment verification cannot be obtained from the ward (or the ward's representative) or the employer, the worker computes one month's budget, based on employment information provided by the ward (or his/her representative).

If the first month's budget is based on a statement of income, the worker must obtain employment verification from the ward (or his/her representative) or employer before computing the second month's budget. Only one budget may be based on declaration of income.

{Effective 02/23/04}

2-001.11A1 Changes in Circumstances: A ward (or his/her representative) must report the following changes:

1. Change or receipt of a resource including cash on hand, stocks, bonds, money in a checking or savings account, or a motor vehicle;
2. Change in residence;
3. New employment;
4. Termination of employment; and
5. Change in the amount of monthly income, including -
 - a. All changes in unearned income; and
 - b. Changes in the source of employment, in the wage rate and in employment status, i.e., part-time to full-time or full-time to part-time. For reporting purposes for CWP, 30 hours per week is considered full-time.

The ward (or his/her representative) is required to report all changes within ten days.

{Effective 12/17/95}

2-001.11A2 Notice Provisions: If a ward (or his/her representative) reports a change timely, the worker recomputes the budget for the month of change if there is an underpayment. If the change would result in an overpayment, the worker makes the change effective with the first month that timely notice is possible.

2-001.11A3 Income as It Applies to Resources: Income received by a ward during any one month for maintenance costs must not be considered a resource for that month. Any income not spent for maintenance is considered a resource in the subsequent month.

2-001.11A5 Income Listing

<u>TYPES OF INCOME</u>	<u>TREATMENT OF INCOME</u>
1. Declared cash winnings, a gift that marks a special occasion, etc., small and insignificant children's cash allowances	1. Disregard \$10 a month for each income type. If more than \$10 a month, count the amount that exceeds \$10 as unearned income.
2. Payments from Title I Workforce Investment Act (WIA) for classroom training	2. Disregard.
3. Earnings received from the employer or compensation in lieu of wages under a Title I WIA program	3. Disregard for a student regardless of age.
4. Title I WIA program allowance paid to the ward or responsible relative or vendor payments made to the provider for supportive services, such as transportation, meals, special tools, and clothing. This includes temporary Welfare-to-Work payments made through Workforce Development.	4. Disregard for all ages.
5. Interest on Series E savings bonds and other bonds which accrue interest	5. Consider as unearned income when redeemed.
6. Interest on Series H savings bonds and other bonds which pay dividends or interest	6. See number 1.

<u>TYPES OF INCOME</u>	<u>TREATMENT OF INCOME</u>
7. Any student financial assistance	7. Disregard
8. A bona fide loan from any source	8. Disregard
9. Payments for participating in training or school attendance subsidized by the Division of Vocational Rehabilitation	9. Disregard. Any expenses that the grant or loan covers must not be considered as an educational need on Form IM-26FC.
10. Unpredictable gifts of indeterminate Value	10. Disregard.
11. Agent Orange settlement payments	11. Disregard.
12. Readjustment allowance that is Issued when Job Corps participants leave the program	12. Consider as earned income.

{Effective 02/23/04}

2-002 Payments for Assistance: Money payments are made in behalf of a ward to the foster parent(s), group home, or child caring agency in which the ward resides; payment may be made to the ward if s/he is living independently. Only the ward is included in the standard of need. The standard filing unit does not apply to foster care cases.

With the exception of bedholding, a child must not receive foster care assistance in two foster care facilities for the same period of time.

2-002.01 Payment According to Living Arrangement

2-002.01A Foster Home and Adoptive Home Payments

2-002.01A1 Traditional Foster Home: When the child is placed in a Traditional Foster Home or an adoptive home (prior to finalization of adoption), the payment is determined by using the Foster Care Payment Determination Checklist. A "Traditional Foster Home" is one that works directly with the Department and is paid directly by the Department rather than providing care under the umbrella of a child placing agency.
{Effective 02/23/04}

2-002.01A2 Agency Based Foster Home: When the child is placed in an Agency Based Foster Home, payment is made to the child placing agency rather than directly to the foster parent. Rate is established in the contract between the child placing agency and the Department and is based on the Department's standardized rate for this type of service. The rate includes recruitment, training, and support of the foster parent by the agency, as well as maintenance related payments for the child. Payment to the foster parent is made by the child placing agency.
{Effective 02/23/04}

2-002.01B Group Home and Emergency Shelter Payments: Rate of payment for these living arrangements is determined in the contract between the contractor and the Department. Any payments in addition to the per diem are made only as stated in the contract. For example, a contract might include allowance for payment of mileage beyond a given number of miles, or might allow for authorization of an initial clothing purchase when the child enters the placement. Before making payments beyond the contracted per diem, the eligibility worker should check the contract to determine if the payment is allowable under the contract.

If a facility does not have a contract with the Department, the rate will be established by Office of Protection and Safety, Central Office, and entered on the N-FOCUS system.

{Effective 02/23/04}

2-002.01C Placement in Home of Relative: When a child is placed in the home of a relative who is not financially responsible for the child, the relative, whether licensed or approved, must be given the choice of payment as a foster parent or of applying for ADC-Relative Payee. The worker must explain the choices to the relative foster parent and allow the relative foster parent to make the decision. If the relative foster parent chooses the foster care payment, the rate is determined just as it would be for any other foster or adoptive parent. In most situations, the foster care payment will be a larger amount than if the relative foster parent chose to apply for ADC-Relative Payee.

When the placement is out of state, and the child is not IV-E eligible, the relative foster parent will have to determine if it is more beneficial to accept that state's ADC-Relative Payee payment, which also entitles the child to that state's Medicaid program, or to continue to receive a foster care payment from Nebraska and have to locate providers who will accept the Nebraska Medicaid card. In either case, the related foster parent has the right to make the choice.

{Effective 02/23/04}

2-002.01D Placement in Home of a Parent(s): A ward can live with his or her legal or putative parent either because no removal has occurred or because the family has been reunified. No payment can be made to the parent for the child's care. The parent can apply for any assistance that would be available to the public, e.g., ADC or child care. If the worker authorizes payment for any services for the parent or child (with the exception of Medicaid), payment must be made from the Service Area's flexible funding allocation. See 479 NAC 4-007.02A for the ward's medical eligibility.

When a child is placed with a parent whose rights have been terminated, that parent is considered to be a foster parent, and 479 NAC 2-002.01A is applicable. In these instances, payment cannot be claimed from IV-E funds.

{Effective 02/23/04}

2-002.01E Jails and Locked Detention Centers: Payment for an HHS-OJS ward for placement in a detention facility always is made by the Office of Protection and Safety, Central Office. Payment for HHS wards (those who are not HHS-OJS) is made by the eligibility worker, at the rate established by Office of Protection and Safety, Central Office. When a ward has both adjudications, the most current adjudication resulting in the detention determines whether the bill is paid by the eligibility worker or the Office of Protection and Safety, Central Office.

{Effective 02/23/04}

2-002.01F Independent Living: A payment may be made to or on behalf of a ward of HHS or HHS-OJS who is preparing for an independent living situation based on the written plan developed by the protection and safety worker. The payment maximum is the basic payment for a child age 12 or older (see 479-000-206). Normally payment is made to the ward; however, the service plan may specify that a portion of the payment is paid to a landlord. If a deposit is required for rent, the youth's guardianship account is used first if available.

The ward is allowed a \$90 work allowance from any earned income. With the exception of disregarded income listed in 479 NAC 2-001.11A4, all earned and any unearned income must be used to meet the ward's needs. The following expenses are considered in determining payment:

{Effective 02/23/04}

1. Clothing;
2. Housing;
3. Transportation;
4. Food;
5. Savings;
6. Educational needs; and
7. Personal needs.

2-002.01F1 Rent Payment: With supervisory approval, the worker may authorize a one-time vendor payment for a rent deposit and/or one month's rent for a Department ward who is preparing for independent living. The rent deposit must not exceed \$210.

2-002.01F2 Living in a Dormitory: If a Department ward is going to school and living in a dormitory, the Department pays the dorm fees, including a deposit, either directly to the school or as reimbursement to the ward. The ward may receive a grant of \$100 maximum for his/her other needs, including meals that are not provided by the dorm. To determine the grant amount, the worker shows shelter and food costs as expenses and the monthly amount for dorm fees as unearned income.

2-002.01G Alternate Living Arrangements

2-002.01G1 Developmental Disabilities Services: Payment for services provided by Developmental Disabilities providers is based upon rates and service authorizations established by HHS's Developmental Disabilities System (see 479-000-329 for procedures).

{Effective 6/8/98}

2-002.01G2 Medical Settings:

2-002.01G2a Hospital: When a ward is receiving treatment in a hospital and the child is eligible for Medicaid or Medicaid Managed Care, the payment is made by Medicaid or Medicaid Managed Care. When the child is not Medicaid eligible, or payment must be made from child welfare funds, payment is made at the Medicaid rate, by State Ward Medical.

The worker may authorize payment for incidentals for the ward on an "as needed" basis. Incidentals include (but are not limited to) recreation, snacks, hair care items, haircuts, or clothing. The Medicaid or Mental Health Managed Care rate includes basic health items such as toothpaste, soap, deodorant, female hygiene items, and shampoo. Therefore, basic health items are to be supplied to the ward by the facility; payment cannot be made from child welfare funds.

{Effective 02/23/04}

2-002.01G2b Residential Treatment Center (RTC): When a ward is receiving treatment in an RTC and the ward is eligible for Medicaid or Medicaid Managed Care, the payment is made by Medicaid or Medicaid Managed Care. When the child is not Medicaid eligible, or RTC care has been approved due to the need for structure rather than medical treatment (lack of medical necessity), payment is made at the Medicaid rate, by State Ward Medical. When the child is IV-E eligible, IV-E funds can be used to pay for the portion of the rate which is related to maintenance and supervision. The portion which usually would be considered treatment is paid from non-IV-E funds.

The worker may authorize payment for incidentals for the ward on an as needed basis. Incidentals include (but are not limited to) recreation, snacks, hair care items, makeup, haircuts, or clothing. The Medicaid or Medicaid Managed Care rate includes basic health items such as toothpaste, soap, deodorant, female hygiene items, and shampoo. Therefore, basic health items are to be supplied to the ward by the facility. Payment cannot be made from child welfare funds.

{Effective 02/23/04}

2-002.01G2c Treatment Group Home or Enhanced Treatment Group Home: When a ward is receiving treatment in a Treatment Group Home or Enhanced Treatment Group Home and the ward is eligible for Medicaid or Medicaid Managed Care, the payment is made by Medicaid or Medicaid Managed Care. When a child is not Medicaid eligible or the Treatment Group Home or Enhanced Treatment Group Home has been approved for reasons other than medical necessity, payment is made at the Medicaid rate, by State Ward Medical. When the child is IV-E eligible, IV-E funds can be used to pay the Department's usual group home rate. The remainder of the payment must be made from non-IV-E funds.

Basic health care items and incidentals are expected to be provided by the facility and cannot be paid from child welfare funds.

{Effective 02/23/04}

2-002.01G2d Treatment Foster Care: When a ward is receiving treatment in a Treatment Foster Home and the child is eligible for Medicaid or Medicaid Managed Care, the payment is made from two separate funding sources. Medicaid or Medicaid Managed Care makes payment for the treatment portion of care. In addition, payment is made for the child's maintenance at the lowest FCPAY need level for that child's age. This maintenance payment source is either IV-E or non-IV-E, whichever is appropriate.

Basic health care items, incidentals, recreation, and clothing are expected to be provided as part of maintenance. Authorization for payment for any additional items generally covered in the basic maintenance payment is possible only if it is allowed under the guidelines for payments for foster care.

{Effective 02/23/04}

2-002.01H Temporary Situations

2-002.01H1 Runaways: When a ward is determined a runaway, the worker changes the address on the system to the local office where the worker is located. The worker closes the grant case but may leave the Social Service Block Grant case open for 90 days. At the end of the 90 days if the ward has not returned, the eligibility worker reviews the case and, after conferring with the protection and safety worker, determines if the medical assistance case should be closed. If bedholding is approved, see 479 NAC 2-002.01H2.

2-002.01H2 Bedholding

2-002.01H2a Authorization of a Bedhold: A bedholding fee may be authorized only when:

1. There is a written plan for the child to return to the placement;
2. The worker has authorized the bedhold; and
3. The provider has agreed to accept the child back into the placement.

{Effective 02/23/04}

2-002.01H2b Bedholds in Contracted Placements: Any bedhold in a facility or program with which the Department has a contract must be authorized within the parameters of the contract.

{Effective 02/23/04}

2-002.01H2c Bedholds in Non-Contracted Placements: Bedholds in facilities, programs, or placements not controlled by a contract and in traditional foster care are limited to five days, at a rate no greater than the rate for the ongoing placement.

Exception: When a ward is placed in a Developmental Disabilities program and payment is being made from Child Welfare funds, the Developmental Disabilities guidelines for approval of and payment for absences from the program must be used.

{Effective 02/23/04}

2-002.01H3 Law Enforcement Pickup: Payment may be made for a law enforcement pickup for 48 hours only. After 48 hours, the child must be returned to his/her home unless the court orders continued placement or the responsible parent or guardian has signed a voluntary placement or relinquishment.

2-002.02 Minor Parent: If a Department ward (including a ward of HHS-OJS) who is receiving a foster care grant has a child (including an unborn) who is living with the ward in a foster home, group home, or child caring institution, the child is not eligible for ADC but may receive a foster care grant. The unborn is eligible for a grant beginning with the first day of the mother's third trimester of pregnancy. The ward and each child are separate units, but the ward may be the payee for his/her child(ren). If the ward is pregnant, the maximum payment she can receive for her unborn is the basic FCPAY amount for a child age 0 to 5 (see 479-000-206). After the child is born, the child's payment is determined by FCPAY. It is the ward's responsibility to pay the foster home, group home, or child caring institution.

If the ward loses his/her eligibility for a foster care grant or the ward and his/her child are separated, the child is no longer eligible for a foster care grant. The worker must determine if the child is eligible for another program, e.g., ADC, or Children's Medical Assistance.

This provision does not apply to wards who are living independently. If a ward is living independently with his/her child, the worker determines the child's eligibility for ADC or Children's Medical Assistance. The child's eligibility for payment is determined separately from the ward's eligibility. It also does not apply to a ward who is placed in the home of a specified relative who is receiving ADC for the ward. In this situation, the ward's child is included in the ADC unit.

{Effective 6/8/98}

2-002.02A Application for the Child: The worker obtains eligibility information for the ward's child. The worker completes a separate budget for the child, using only the child's income. If the ward receives child support for his/her child, the child support is considered in the child's budget.

{Effective 6/8/98}

2-002.02B SSN Application for a Newborn: If Enumeration at Birth was not done as verified by a Vital Statistics Alert, the worker refers the parent or payee to the Social Security office via a Referral for Social Security Number Application by the first day of the second month following the mother's discharge from the hospital after the birth. If the child is not born in a hospital, a Referral for Social Security Number Application must be completed by the first day of the second month following the birth regardless of where the child is born.

2-002.02C Protective Payee: If a ward is the payee for his/her child and the worker documents that the assistance is being mismanaged and is not being used in the best interests of the child, the worker may temporarily assign a protective payee. See 468 NAC 3-008.04 ff. for regulations regarding protective payees.

2-002.03 Amount of Maintenance Payment: The amount of the maintenance payment is determined using the FCPAY system.

The foster family payment amount includes all usual costs of maintaining a child and carrying out activities that are within the realm of ordinary parental duties, including but not limited to:

1. Board and room;
2. Personal needs, including recreation and activities;
3. School needs, including school trips and graduation expenses;
4. Transportation up to 100 miles a month (for transportation not covered in the maintenance payment see 479 NAC 2-002.03E);
5. Clothing (for clothing not covered in the maintenance payment see 479 NAC 2-002.03F); and
6. Allowance.

If additional assistance is needed with any of these expenses, the worker should explore resources such as the legal parents, the child's guardianship account, or Nebraska Friends of Foster Children Foundation, Inc.

See 479-000-206 for FCPAY amounts.

{Effective 02/23/04}

2-002.03A Definitions of Payments:

Grandfathered Payment: These are monthly maintenance payments which were approved before February 1, 1998. These payments will not be reduced as long as the foster child remains with the foster parent(s) for whom the payment was approved. The monthly maintenance payment may be increased if the Total Payment as calculated on the FCPAY system is higher than the grandfathered payment. If the foster child changes placement (for example, moves to another foster family), the grandfathered payment will no longer be applicable.

Time-Limited Payment: When a payment is designated for a specific period of time, it should be identified as time limited on FCPAY.

{Effective 6/8/98}

2-002.03B Age Change: Payments are increased on the first day of the month of the child's birthday when a child moves from one age level to another, unless the child has a grandfathered payment.

{Effective 6/8/98}

2-002.03C (Reserved)

2-002.03D Child Care: Child care may be approved under the following guidelines:

1. Child care may be authorized for the hours when the foster parent(s) works or attends school. In two-parent foster families, both foster parents must work outside the home or attend school during the hours for which child care is provided. Child care may be authorized during the working hours or school hours (to include reasonable travel time) of the foster parent(s). Child care cannot be authorized for foster parents who provide child care services in their home. (Child care for this purpose is IV-E reimbursable.)
2. Child care may be approved for brief periods of time, consisting of a few hours, to provide supervision for a ward when the foster parent must be absent in order to meet the needs of another ward in his/her care (for example, foster parent is attending a team meeting or court review) and:
 - a. The other foster parent is employed and at work at that time; and
 - b. The child needing supervision cannot accompany the foster parent.
3. Pre-school child care may be provided for the purpose of improving socialization skills. (Child care for this purpose is not IV-E reimbursable.)

Except in exceptional circumstances, payment for child care is made directly to the child care provider based on child care subsidy regulations (see Title 392). The provider must be licensed or approved.

In an exception to child care subsidy regulations, if the provider charges private pay families based on enrollment rather than attendance, the Department will pay for enrollment.

{Effective 02/23/04}

2-002.03D1 Reimbursement to Foster Parent: In exceptional circumstances, the worker may approve a payment to the foster family on a one-time basis. If the foster parent must be reimbursed for child care, a billing or receipt must accompany the request for payment. The foster parent may be reimbursed for payment of child care if:

1. The foster parent(s) paid for child care during this time;
2. The rate is within the child care subsidy maximums and meets the need for child care as outlined in 479 NAC 2-002.03G2; and
3. The care was provided.

{Effective 6/8/98}

2-002.03E Transportation: The foster parents may provide transportation themselves or purchase transportation from a provider.

Note: Transportation provided or purchased by a foster parent is exempt from Public Service Commission certification requirements.

Transportation is a reimbursable IV-E expense only when it is for purposes of visitation with a parent, siblings, other relative, or other caretaker. Other transportation that is allowable but is presumed to be included in the basic foster care maintenance payment includes:

1. Transportation of a child to and from child care;
2. Transportation of a child for extracurricular activities that substitute for daily supervision; or
3. Transportation of a child for sports and cultural events.

Transportation for preplacement visits with a prospective adoptive parent is not allowable as a IV-E expense.

{Effective 02/23/04}

2-002.03E1 Provided by Foster Parent: One hundred miles of transportation is presumed to be included in the monthly rate.

If the foster parent(s) requests reimbursement for transportation beyond 100 miles a month, s/he should estimate the number of miles regularly traveled for services for the child as listed in the case plan. The estimate of miles and purpose for the transportation must be documented in the case file.

The foster parent(s) may receive monthly reimbursement at the Department-established rate for each increment of 50 miles over the initial 100 miles. The estimate must be rounded to the next highest 50 miles. The estimate of miles should be in the plan for transportation in the case file. The transportation must meet the following guidelines:

1. The foster parent(s) would not be doing the driving if the child were not there, i.e., s/he would not be taking his/her birth child to the same location or driving himself/herself;
2. If more than one foster child is being transported, the transportation payment is divided evenly between the children; and
3. The transportation need is documented in the case file on the services documentation form.

The worker should discuss the transportation expectations with the foster parent(s) and determine the number of approximate miles the foster parent(s) travels for each child in the home and the purpose of the travel.

{Effective 02/23/04}

2-002.03E2 Purchased by the Foster Parent(s): The foster parent(s) may be reimbursed if s/he pays transportation providers more than \$21 a month. The foster parent(s) may be reimbursed when a transportation need dictates the use of public or specialized transportation such as a taxi, bus, or a handicapped accessible van or bus. The following should be documented in the case file:

1. The child's handicapping condition;
2. The fact that the foster family's vehicle will not accommodate the child's handicap or that both foster parents are unable to provide transportation and cannot find someone to do it.

Reimbursement must be actual costs with receipts or verification through the transportation plan prepared with the protection and safety worker and be consistent with the child's needs and services in the case plan.

If the child's unique transportation needs exceed 100 miles or \$21 on a monthly basis, the amount within the guidelines may be added to the monthly payment. The child's unique transportation needs should be clearly documented in the case file. This includes an estimate of miles and frequency of trips needed in order to provide the services for the child in the case plan. If it causes a hardship for the foster family to make payment above \$21 a month for a taxi, van, or bus, the worker may issue an advance payment.

{Effective 9/20/95}

2-002.03E3 Purchased by the Department: The worker may approve purchased transportation or escort services for:

1. Visits with or return to parents;
2. Placement of child;
3. Therapy or special medical care;
4. Return of child from runaway; or
5. Ongoing preplacement visits with parents, foster parents, relatives, or pre-adoptive family.

This transportation includes public transportation such as taxis, bus, train or plane or private providers. The worker must use the least expensive form of transportation that is appropriate for the child.

The worker must explore funds in the child's guardianship account and other potential funding source such as relatives or community organizations before payment is authorized.

For Public Service Commission certification requirements for transportation providers, see 479-000-317. If the child requires an escort to the service, see 474 NAC 5-011.10D1.

{Effective 9/20/95}

2-002.03E3 Department Authorized Public or Contracted Transportation

2-002.03E3a Introduction: The guidelines in this section provide direction for:

1. The authorization and provision of Transportation Service for Families; and
2. The evaluation and approval of transportation providers, including individual providers as authorized by Neb. Rev. Stat. § 75-303.03.

2-002.03E3b Transportation Definitions: For the purposes of these regulations the following definitions will apply to 479 NAC 2-002.03E3 and 2-002.03E4.

Common Carrier means any person who transports passengers by motor vehicle for hire and is licensed as such with the Public Service Commission (PSC).

Department means the Department of Health and Human Services. (DHHS) as established by the Health and Human Services Act (Laws 2007, LB296).

Department staff means employees of the Department of Health and Human Services or contractors of the Department of Health and Human Services assigned those responsibilities.

Escort Service means an attendant or caregiver accompanying a minor or person(s) who are physically, mentally, or developmentally disabled and unable to travel or wait without assistance or supervision.

Exempt Provider means carriers exempted from Public Service Commission (PSC) licensure by law including those that:

1. Transport for hire persons who are aged and their spouses and dependents under a contract with a municipality or county;
2. Are owned and operated by a non-profit organization that has been exempted from the payment of federal income taxes as provided by Section 501(c) 4, Internal Revenue Code and transporting solely those persons over age 60, their spouses and dependents, and/or persons experiencing disabilities;
3. Are operated by a municipality or county as authorized by law in the transportation of persons who are aged;
4. Are operated by a governmental subdivision or a qualified public purpose organization having motor vehicles with a seating capacity of 20 or less and are engaged in the transportation of passengers in the state;
5. Are engaged in the transportation of passengers and are operated by a transit authority created under and acting pursuant to the laws of the State of Nebraska; and
6. Provide escort services under contract with the Department of Health and Human Services or with any agency under the Nebraska Community Aging Services Act.

Individual Provider means a person who is not in the business of providing transportation for hire; for example, a friend, neighbor, or non-legally responsible relative.

Medical Escort means an attendant or caregiver accompanying a minor or persons who are physically, mentally, or developmentally disabled and unable to travel or wait without assistance or supervision to receive a Nebraska Medicaid coverable service.

Nebraska Medicaid Coverable Services means a medical service that could be covered by Nebraska Medical Assistance Program (NMAP) as specified in Nebraska Administrative Code (NAC) Title 471 (see 479-000-XXX).

Public or Contracted Transportation means public transportation such as a taxi, bus, train, or plane.

Tariff means the geographic and rate parameters of operation assigned to a particular carrier by the Public Service Commission.

2-002.03E3c Clients Served

2-002.03E3c(1) Eligibility: Department staff may authorize public or contracted transportation for clients who are:

1. State wards;
2. Custodial parents;
3. Non-custodial parents;
4. Relatives;
5. Foster families; and
6. Pre-adoptive families.

2-002.03E3d Transportation Service Need: Department staff must determine a client has the need for transportation services. Transportation services are not provided based on the demand of the client. Need for a service implies that the provision of that service will assist the client in achieving program goals, the case plan and/or the safety/case plan. Eligible clients must:

1. Have no access to a working licensed vehicle or a valid driver's license;
2. Be unable to drive due to physical or cognitive limitation;
3. Be unable to secure transportation from relatives, friends or other organizations at no cost;
4. Require transportation in relationship to a defined area of need (see 479 NAC 2-002.03E3e);
5. Have a current safety plan or case plan; or
6. Accept the current safety plan or case plan.

2-002.03E3e Reasons the Department Authorizes Public or Contracted Transportation: The worker may authorize public or contracted transportation to:

1. Enable a family member or caregiver to visit a hospitalized child who is included in the family unit or in foster care;
2. Visit with either the custodial or non-custodial parent;
3. Place a child;
4. Attend therapy or special medical care;
5. Return a child from runaway;
6. Participate in ongoing pre-placement visits with parents, foster parents, relatives or a pre-adoptive family;
7. Allow a state ward and his/her parent or caregiver placed out-of-state to attend court hearings for the purpose of meeting their permanency plan; or
9. Allow a youth, parent, or foster parent to access services related to meeting goals established in the safety and/or case plan.

2-002.03E3f Worker Responsibility: Before authorizing public or contracted transportation as defined in 479 NAC 2-002.03E3b, the worker must explore funds in the child's guardianship or excess child support accounts and any other potential funding sources such as relatives, community organizations, flexible funding, private insurance, Medicaid, Medicare, or Employment First (for EF see 468 NAC 2-002.02). The worker must use the least expensive form of transportation that is appropriate for the client.

2-002.03E3g Public Service Commission Certification Requirements: The Public Service Commission certifies common carriers (see 479-000-317 for PSC requirements) Taxis and van companies are certified by the PSC as common carriers. Staff must:

1. Verify that the carrier is certified by the Public Service Commission;
2. Request and receive a copy of the carrier's tariff; and
3. Verify that the carrier has a special Department designation.

Transportation provided by child care providers, family support providers, and foster parents is exempt from Public Service Commission (PSC) certification requirements since it is incidental to the service provided.

2-002.03E3h Authorization of Escort Services: If the child requires escort services, see 474 NAC 5-018.

2-002.03E4 Private Transportation Providers and Services Requested by the Child or Family

2-002.03E4a Transportation Services for Families: Transportation service is a means of transporting eligible clients to and from allowable community resources when the client has no other transportation. The client must actually be in the vehicle for a trip or mile to be considered a transportation service unit. Transportation services may be provided by an individual, exempt provider, or by common carriers.

2-002.03E4a(1) Introduction: The guidelines contained in this section provide directions for:

1. The authorization and provision of Transportation Service for Families; and
2. The evaluation and approval of transportation providers, including individual providers as authorized by Neb. Rev. Stat. § 75-303.03.

2-002.03E4a(1)(a) Outcomes: Department staff must select one of the following outcomes in order to authorize transportation services:

1. Client is able to experience the optimal level of health, safety, and independence in a healthy and safe home environment;
2. Client is able to receive ongoing support from unpaid caregivers; or
3. Client's risk of abuse, neglect, and/or exploitation is prevented, reduced, or eliminated.

2-002.03E4b Transportation Definitions: For purposes of these regulations see 479 NAC 2-002.03E3b.

2-002.03E4c Clients Served

2-002.03E4c(1) Eligibility: Local staff may authorize transportation services under 479 NAC 2-002.03E4 for clients who are:

1. State wards;
2. Non-state wards in an investigation or voluntary case only;
3. Custodial parents;
4. Non-custodial parents;
5. Relatives; and
6. Pre-adoptive families.

2-002.03E4d Transportation Need for Service: Department staff must determine a client has the need for transportation services. Transportation services are not provided based on the demand of the client. Need for service implies that the provision of that service will assist the client in achieving program outcomes. Eligible clients must:

1. Be unable to provide needed transportation (i.e. have no access to a licensed working vehicle or be unable to drive);
2. Be unable to secure transportation by a family member, relative, friend, organization, or agency (other than the Department) at no cost;
3. Require transportation in relation to a defined area of need (see 479 NAC 2-002.03E4f);
4. Have a current safety plan or case plan; and
5. Accept the authorized case plan.

2-002.03E4d(1) Medicaid Managed Care Enrollees: If the client is enrolled in one of the Medicaid Managed Care HMO plans, the HMO is responsible for authorizing transportation for the client's medical services and Department staff must not authorize medical transportation. Exception: Department staff may authorize transportation for adult day care or mental health day rehab services and for dental-related appointments and pharmacy services under Medical Transportation codes. Staff may authorize non-medical transportation for Medicaid Managed Care enrollees if the client meets the program guidelines. If the client is enrolled in one of the Medicaid Managed Care "Primary Care" plans then the responsibility for transportation authorizations remain with Department worker.

2-002.03E4d(2) Medicaid Mental Health Managed Care Enrollees: If the client is enrolled in the Medicaid Mental Health/Substance Abuse Managed Care Plan, the Mental Health/Substance Abuse Plan is responsible for authorizing transportation for mental health/substance abuse services and Department staff must not authorize mental health or substance abuse related transportation. Exception: Department staff may authorize transportation for adult day care or mental health day rehab services, and for other medical appointments under Medical Transportation codes, unless the client is enrolled in the Medicaid Managed Care HMO Program. Staff may authorize non-medical transportation for Medicaid Mental Health Managed Care enrollees if the client meets the program guidelines.

2-002.03E4d(3) Residents of Nursing Facilities or ICF/MR's: Residents of nursing facilities or ICF/MR's are not eligible to receive transportation through the Child Welfare Program, except discharge transportation. All other transportation is the responsibility of the nursing facility or ICF/MR. Transportation, including moving the client's household goods or personal property, may not be authorized for these clients.

2-002.03E4e Reserved

2-002.03E4f Defined Areas of Transportation Need: Staff may authorize transportation for families only to meet client needs in the following areas. Transportation/Escort Service for Families means service which enables:

1. Children to travel to:
 - a. Child care;
 - b. Health-related treatment or care; or
 - c. Department or other community resource to receive services as a part of a child protective services safety plan and/or case plan; and
2. Parents or usual caregivers to travel to:
 - a. Health services;
 - b. Department or a community resource to receive services as a part of a child protective services safety plan and/or case plan; or
 - c. Visit a hospitalized child included in the family unit or in foster care; and
3. Biological parents or usual caregivers with children in foster care to receive services directed toward returning the child home.

2-002.03E4f(1) Child Protective Services Transportation: Transportation may be authorized as part of a child protective services safety plan and/or case plan.

2-002.03E4f(2) Child Care Transportation: The worker may only authorize transportation under the following circumstances:

1. The child care is necessary for any of the reasons listed in 392 NAC 3-007.01 and 474 NAC 5-011.02;
2. Transportation costs are not included in the total child care rates (for guidelines see 392 NAC 4-003.05); and
3. The child care is licensed or license-exempt.

2-002.03E4f(3) State Ward and Foster Care Transportation: The worker may authorize transportation to allow biological parent(s) or usual caregivers with a child who is a Department ward to receive services directed toward the return of the child to the home or the maintenance of the child in the home. For authorized public or contracted transportation for foster care see 479 NAC 2-002.03E3.

2-002.03E4f(4) Medical Transportation or Escort: The worker may authorize transportation or escort to enable the eligible child to receive a Nebraska Medicaid-coverable service. This includes transportation for a child to receive services identified through HEALTH CHECK. For Medicaid-coverable services see 474-000-503.

2-002.03E4f(5) Transportation for Visit: The worker may authorize transportation or escort to enable a family member or caregiver to visit a hospitalized child who is included in the family unit or in foster care as specified in 479 NAC 2-002.03E3e.

2-002.03E4g Transportation Services Provider Standards: Department contracts annually with common carriers, exempt providers, escort providers, and individual providers. Providers must meet all general provider standards in addition to the service specific standards.

2-002.03E4g(1) Common Carrier Standards: The Public Service Commission certifies common carriers. Taxis and van companies are certified by the PSC as common carriers. Department staff must:

1. Verify that the carrier is certified by the Public Service Commission;
2. Request and receive a copy of the carriers tariff; and
3. Verify that the carrier has a special Department designation.

Transportation provided by child care providers, family support providers, and foster parents is exempt from PSC certification requirements since it is incidental to the service provided.

2-002.03E4g(2) Exempt Provider Standards: Exempt providers must ensure that their employees meet the individual provider standards in 479 NAC 2-002.03E4g(3).

2-002.03E4g(3) Individual Provider Standards: Department staff is authorized to contract with individual providers under Neb. Rev. Stat. § 75-303.03 only if the following driver and vehicle standards are met at all times when the individual is providing transportation for a client.

2-002.03E4g(3)(a) Driver Standards: The individual provider must:

1. Have been chosen by the client or the usual caregiver to provide transportation;
2. Be age 19 or older;
3. Possess a current and valid driver's license;
4. Have no more than three points assessed against his/her Nebraska driver's license, or meet a comparable standard in the state where s/he is licensed to drive;
5. Currently have no limitations that would interfere with safe driving;
6. Personally drive his/her own vehicle to transport the client;
7. Use seat belts and child passenger restraint devices as required by law;
8. Not smoke while transporting the client;
9. Not transport the client while under the influence of alcohol or any drug that impairs the ability to drive safely;
10. Not provide transportation if s/he has a communicable disease which may pose a threat to the health and well-being of the client;
11. Have and maintain the minimum automobile liability and medical insurance coverage as required by law; and
12. Report disqualification from any Department program for intentional program violations.

2-002.03E4g(3)(b) Vehicle Standards: The individual provider's vehicle must be:

1. Currently licensed and registered as required by law;
2. Kept at all times in proper physical and mechanical conditions;
3. Equipped with operable seat belts, turn signals, lights, and horn;
4. Equipped with proper child passenger restraint devices as required by law when transporting children; and
5. Equipped to provide comfortable temperature and ventilation conditions.

2-002.03E4g(3)(c) Registry Checks and Criminal Background Checks: Department staff or designee must complete and document registry checks and criminal background checks on each potential individual provider.

2-002.03E4g(3)(c)(1) Registry Checks: Department staff must check:

1. Adult Protective Services Central Registry;
2. Central Register of Child Protection Cases; and
3. The Nebraska State Patrol Sex Offender Registry.

If the potential provider does not reside in Nebraska or has resided in Nebraska for less than one year, Department staff must check registries in the state of residence or previous residence, if possible.

2-002.03E4g(3)(c)(2) Department staff must not contract with a potential individual provider if a report of abuse or neglect concerning the individual provider has been determined to be "Court Substantiated" or "Department Substantiated on the APS Central Registry or "Court Substantiated", "Court Pending" or "Inconclusive" on the Central Register of Child Protection Cases.

2-002.03E4g(3)(c)(3) Department staff must not contract with a potential individual provider if the individual's name appears on the Nebraska State Patrol Sex Offender Registry.

2-002.03E4g(3)(c)(4) Criminal Background Checks: Department staff must:

1. Obtain a criminal history statement from the potential individual provider; and
2. Perform a criminal history check of the potential individual provider.

2-002.03E4g(3)(c)(5) General Criminal History : Department staff must not contract with a potential individual provider if a history of convictions for misdemeanor or felony actions that endanger the health and safety of any client is indicated. This includes crimes against a child or vulnerable adult, crimes involving intentional bodily harm, crimes involving the illegal use of a controlled substance, crimes involving moral turpitude on the part of the potential provider, or any major traffic violations.

2-002.03E4g(3)(c)(6) Specific Criminal History: Department staff must deny or terminate service provider approval when conviction has occurred in the following areas:

1. Child pornography;
2. Child or adult abuse;
3. Driving under the influence: a DUI conviction within the past eight years;
4. Domestic assault;
5. Shoplifting after age 19 and within the last three years;

6. Felony fraud within the last 10 years;
7. Misdemeanor fraud within the last five years;
8. Termination of provider status for cause from any HHS program within the last 10 years;
9. Possession of any controlled substance within the last five years;
10. Possession of a controlled substance with intent to deliver within the last 10 years;
11. Felony or misdemeanor assault without a weapon in the last 10 years;
12. Felony or misdemeanor assault with a weapon in the last 15 years;
13. Prostitution or solicitation or prostitution within the last five years;
14. Felony or misdemeanor robbery or burglary within the last 10 years;
15. Rape or sexual assault; or
16. Homicide.

Pending charges must be reviewed by Department to determine whether the client's safety is in jeopardy. Other convictions must be considered using the guidance in 479 NAC 2-002.03E4g(3)(c)(5) and weighted to similar offenses included in this list.

2-002.03E4g(3)(d) Individual Provider Approval Process: Department staff must obtain a copy of the individual's current driver's license, insurance card, and vehicle registration. The provider must complete and sign the provider self-certification and the provider agreement. In addition to having no more than three points assessed against his/her driver's license, each provider's past eight year driving history must be considered. If a license has been suspended or revoked, the provider must not be approved for eight years from the date of suspension or revocation.

2-002.03E4g(3)(d)(1) Renewal: The provider self-certification and the provider agreement must be renewed annually. The registry checks and criminal history checks required under 479 NAC 2-002.03E4g(3)(c) must be completed for each renewal. Department staff must obtain a copy of the individual's current driver's license, insurance card, and vehicle registration. Department staff must not renew any contract with a provider whose name appears on the registries or whose criminal history check indicates a history of any convictions as specified in 479 NAC 2-002.03E4g(3)(c).

2-002.03E4g(3)(d)(2) Termination: Department staff must terminate the provider agreement if the individual provider is found to be in violation of any of the standards in 479 NAC 2-002.03E4g(3)(a) and (3)(b). Department staff must terminate any contract with a provider whose name appears on the registries or whose criminal history check indicates any convictions as specified in 479 NAC 2-002.03E4g(3)(c).

2-002.03E4h Authorization Procedures: Before authorizing Transportation/Escort Services, Department staff must explore with the client the use of family, neighbors, friends, or community agencies that will provide this service without charge whenever possible. Department staff must discuss types and options of providers with the client before authorizing transportation services. Department must assure the client is aware of the associated costs.

2-002.03E4h(1) Medical Transportation: Department staff must offer the client choice of providers for medical transportation/escort services.

2-002.03E4h(1)(a) Transportation for Out-of-State Medical Treatment: See 474 NAC 5-018.07B.

2-002.03E4h(2) Non-Medical Transportation: For areas where exempt providers are available or the client has chosen to use an individual provider, the client may only use a common carrier when the exempt provider or individual provider cannot provide the service.

2-002.03E4h(3) Authorization of Exempt Providers: Department staff may contract with and authorize services for a provider who is exempt from PSC licensure as appropriate to meet a client's needs. The availability of a common carrier does not limit the use of an exempt provider.

2-002.03E4h(4) Individual Providers: Department staff may authorize an individual provider if the following criteria are met:

1. The client has chosen the individual provider;
2. The individual will personally drive the vehicle; and
3. The individual meets provider standards as specified in 479 NAC 2-002.03E4g(3).

2-002.03E4i Transportation Services Rates, Frequency and Maximum Allowable Units

2-002.03E4i(1) Conditions for Payment: The Department will pay for transportation services only:

1. When the client is actually in the vehicle; and
2. Using the most direct and logical route from the client's residence to the service location.

2-002.03E4i(2) Upper Limits: DHHS Central Office establishes transportation rates according to the following limits. Department staff assigned RD responsibilities may negotiate rates lower than the established rates.

2-002.03E4i(2)(a) Common Carriers: Neb. Rev. Stat. § 75-303.02 limits the distance rates for common carriers at a rate no greater than three times the state employee mileage rate. The maximum reimbursement rate does not apply when the carrier:

1. Transports the client wholly within the corporate limits of the city or village where the transportation of the client originated; or
2. Transports a disabled person as defined by the federal Americans with Disabilities Act of 1990 in a vehicle that is compliant with the regulations for the transportation of the disabled person.

2-002.03E4i(2)(b) Taxis: Taxi rates may be no greater than 95% of published rates.

2-002.03E4i(2)(c) Exempt Providers: DHHS Central Office will establish the rates for exempt providers.

2-002.03E4i(2)(d) Individual Providers: As provided by Neb. Rev. Stat. § 75-303-03, the Department of Health and Human Services will reimburse the individual provider for costs incurred in transportation at a rate no greater than that paid for reimbursement of state employees under Neb. Rev. Stat. § 81-1176 only for mileage.

2-002.03E4i(3) Frequency: The frequency for medical and non-medical transportation is by miles or trip. Department staff must authorize time and miles traveled separately.

2-002.03E4i(4) Maximum Allowable Units: Department staff must authorize transportation units based on client need not to exceed the following limits:

1. Non-medical Transportation:
 - a. 500 miles per one way trip;
 - b. To and from child care; and
 - c. To and from community services based on child protective services safety plan and/or case plan; or
2. Medical Transportation: Based on needed treatment and care.

2-002.03E4i Transportation Forms and Instructions: In addition to forms for General Provider Approval MC9-LTC and MILTC-1700, Provider Self Certification Checklist, the worker must use forms required by the Public Service Commission for exempt providers.

2-002.03F Clothing Allowance

2-002.03F1 Initial Clothing Purchases: The child entering out-of-home care may need clothing. A maximum of \$200 may be used to purchase clothing over a maximum period of six months after the child comes into care. This authorization is based on the individual needs of the child who is entering foster care or group home care and is not automatically authorized for all wards. A ward is eligible for the initial clothing allowance based on his/her needs each time s/he is placed out of his/her family home.

The case manager must provide documentation to the eligibility worker. The worker may authorize an initial clothing expenditure within these guidelines. A child in a group home may receive clothing under these guidelines.

If the ward has a guardianship account with the Department, the funds may be used to purchase additional clothing.

{Effective 02/23/04}

2-002.03F2 Special Clothing Allowance: The child may receive a special clothing allowance up to \$200. This may be authorized for clothing required because of:

1. The child's sudden weight loss or gain not associated with normal growth;
2. The child's loss of clothing due to being AWOL. The care provider and worker will assess the child's needs upon his/her return;
3. The child's placement in a facility where clothing replacement is not in the contract or where it is not part of the expected care, such as hospitals;
4. The child's move from one foster home to another or into a group home if documented why the previous foster parent did not purchase or send clothing. Documentation must include that appropriate action was taken by Resource Development or other staff regarding the foster family's failure to purchase or send clothing; or
5. The child's clothing has been destroyed in a disaster such as a fire or flood or by vandalism.

This special clothing allowance may be authorized once in 12 months and only if the worker documents that one of these situations exists. A child in a group home may receive clothing under these guidelines. It may be authorized even if an initial clothing purchase was provided within the same 12 months. Authorization of clothing purchases due to seasonal changes or because a school year is starting is not allowed.

{Effective 02/23/04}

2-002.03G (Reserved)

2-002.03H Other Needs

2-002.03H1 Driver's Education Classes: The worker may approve costs of Driver's Education classes if:

1. The school does not provide Driver's Education free of charge for other students and the fee is the same as for other students;
2. The legal parents have been asked and cannot pay or only paid part of the cost; and
3. There is insufficient money in the ward's guardianship account and the ward is willing and able to attend and participate in every class session.

This payment of these classes is allowed only one time. Independent living grant funds may be used for these classes.

{Effective 02/23/04}

2-002.03H2 Summer School: For students not eligible for state ward education funds, the worker may approve the amount billed by the school within the following guidelines:

1. The school does not offer summer school free to others;
2. The child's need to attend is documented by the school;
3. The low income family rate will be paid, if the school has one; and
4. The child attended the summer school sessions as billed.

This payment may be entered on N-FOCUS as a one-time only payment.

{Effective 9/20/95}

2-002.03H3 Furniture: Furniture such as beds, dressers, tables, or chairs may be paid for under the following guidelines:

1. Furniture is needed in order for a provider to accept the placement, such as a sibling group being placed together; or
2. Adolescents moving into an independent living arrangement need furniture.

This is intended to provide minimum adequate furniture necessary to set up a household.

The worker, provider, or adolescent should explore donations, garage sales, or thrift stores. Payment for furniture must be based on the lowest of estimates for similar products from at least two stores. The furniture should go with the ward if the ward moves. In some cases this will not be possible so the furniture could remain with the provider for future placements, be given to another provider, or be sold with the money returning to the state, designated for the care of that child.

{Effective 9/20/95}

2-002.03J Checklist and Payment Review: The Foster Care Payment Determination Checklist and payment must be reviewed at the following times:

1. Every year, preferably in conjunction with the development and review of the case plan;
2. When a child moves to another foster family home;
3. When the child's needs have changed significantly; and
4. At foster parents' request. The foster parents may request a review at any time. If the worker disagrees, s/he will discuss the decision with the supervisor and either complete the checklist or notify the foster parents why the decision was made not to review the payment. If the foster parents disagree with the decision, they may complete the grievance procedures.

In all of the cases described in numbers 1 and 2, if the review indicates that the child changes from one level to another, the payment will change accordingly, either up or down. This does not include grandfathered payments unless the foster parents request that the checklist be completed.

{Effective 9/20/95}

2-002.03J1 Grievance Procedure for Checklist: The grievance procedures for foster parents when they disagree with the decision to complete the checklist or the accuracy of the checklist are as follows:

1. Discuss concerns and comments with the worker;
2. If there is disagreement, the foster parents will contact the worker's supervisor; and
3. If the issue is not resolved, the foster parents may contact the service area designee who will make the decision.

The worker will inform the foster parents of their right to grieve.

{Effective 9/20/95}

2-002.03K Contract Foster Family Care or Group Home Care: See 479 NAC 2-002.01A and 2-002.01B.

{Effective 02/23/04}

2-002.03L Child Placed in Home of Relative: See 479 NAC 2-002.01C.

{Effective 02/23/04}

2-002.03M Medicaid Waiver: When a ward is accepted for the Medicaid Waiver Program, the Department continues to pay the child's room and board and personal needs based on the rate the facility is licensed or certified for (see 479 NAC 2-002.01B and 2-002.01G). The Department retains custody of the ward and continues to be payee for any benefits that the ward receives, such as SSI.

2-002.04 Prorated Payment: Except for law enforcement pickups, voluntary placements, and voluntary relinquishments, the first month's payment is prorated from the date of court-ordered placement. Payment is prorated for ongoing cases if the child moves from one facility, foster home, or group home to another. For law enforcement pickups, payment is prorated from the date of the pickup. For voluntary placements and relinquishments, payment is prorated from the date of the agreement.

The prorated payment is determined by dividing the maintenance payment by the actual number of days in the month and multiplying by the number of days in placement. Payment is made for the date of placement but not for the date of removal. When there is a contract with a child caring agency that specifies a per diem rate, the per diem rate is used for prorating. For date of medical eligibility, see 479 NAC 4-004.

2-002.05 Revision of Budget and Payment: The worker revises the assistance budget at the time of review and whenever changes in the ward's income occur.

2-002.06 Incorrect Payments: The following regulations apply to incorrect payments made to foster parents and child caring agencies.

2-002.06A Underpayments: All underpayments must be corrected promptly.

2-002.06B Overpayments: The agency must take all reasonable steps necessary to promptly correct overpayments. Overpayments over \$50 are recouped. Overpayments may be recouped from future payments for the same or different children.

{Effective 02/23/04}

2-002.07 Flexible Use of Child Welfare Funds: A specific amount of child welfare funds is available to each Service Area for purchase of goods or services that are expected to enhance safety, permanency, or wellbeing of the child. The process for approval to use these child welfare funds is determined by each Service Area. The funds can be used when:

1. The need for the goods or service is documented in the safety or case plan;
2. There is no other funding source available, including but not limited to the family's personal funds, other assistance programs, or other programs available to the community;
3. The expenditure is anticipated to enhance safety, permanency, or wellbeing of the child; and
4. The need for assistance from the Department for the payment is short term, either because the family anticipates having another funding source within a short period of time or the need itself is short term. Payment from this source is not appropriate when it is anticipated that making the payment could result in the need for continued involvement by Protection and Safety.

Payment can be made directly to the parent or child or to the service provider. When the service to be provided is medical, the Nebraska Medicaid or Managed Care rate will be paid.

The funds can be used for wards or their families or for children and their families when there is an open CPS case.

{Effective 02/23/04}

2-002.08 Funds From Other Sources

2-002.08A Guardianship Accounts: If a ward has a guardianship account that is deposited with the Department, special purchases may be made from the account. The worker completes Form PS-0866 and forwards it to Finance and Accounting, Central Office.

2-003 Case Records: The case record must be complete and must contain facts to substantiate each action with respect to assistance payments.

2-004 Fraud: See 465 NAC 2-007 ff.

2-005 Eligibility Review: An eligibility review for a grant is required every 12 months.

The worker reviews the information on Form IM-18FC. At the time of the review, the worker determines if deprivation exists based on the parent(s)' situation (see 479-000-327). All other elements of the review, including income and resources, are based on the ward's circumstances.

Note: If, after all applicable information is received, a case is determined ineligible for IV-E in the initial determination, it remains ineligible for IV-E until the case is closed with the following exceptions: If a case is ineligible for IV-E because of the living arrangement or if the living arrangement changes or reasonable efforts finding is obtained, the case may be changed to IV-E. A case may be changed from IV-E to non-IV-E if it no longer meets all of the requirements listed in 479 NAC 2-009.01A through 2-009.01D.

{Effective 02/23/04}

2-006 Discharge of a Ward: Before a ward age 18 or older is discharged, the worker must determine if s/he would be eligible for Extended Assistance for Former Department Wards, formerly known as The Former Ward Program.

2-006.01 Disbursement of Guardianship Funds: When a Department ward is discharged or adopted, funds that are held in the State Ward Guardianship Account are dispensed of as follows:

1. When the source of the funds is Social Security (SSI or RSDI), the funds are returned to the Social Security Administration.
2. When the source of the funds is not Social Security, the funds are given to:
 - a. The ward if s/he has reached the age of majority;
 - b. The ward's parent(s) if the ward is still a minor;
 - c. The adoptive parent(s) if there has been an adoption; or
 - d. A guardian or conservator if one has been appointed by the court.

{Effective 02/23/04}

2-007 Burial of a Ward: When payment by the Department is necessary for burial of a Department ward, the worker obtains the billing from the mortuary, verifies that the charge is consistent with the rate negotiated with the mortuary, and processes through N-FOCUS. A headstone based on usual and customary charges may be provided by the Department if no other funds are available. If the child has a guardianship account, it will be used to defray the funeral and burial expenses. See also 390 NAC 11-002.01I.

{Effective 02/23/04}

2-008 (Reserved)

2-009 IV-E Eligibility

2-009.01 Initial Determination: Wards who meet the requirements in the following material at the time the maintenance case is opened qualify for payment from federal funds under Title IV-E of the Social Security Act.

{Effective 6/8/98}

2-009.01A Family's Eligibility for ADC: To be eligible for payment from federal funds, the ward must have been eligible for ADC under the state's regulations that were in place July, 1996. Eligibility is determined for the month court proceedings leading to the removal of the child from the home were initiated (petition was filed or the court order, whichever initiated the ruling). If the ward was not eligible during the month of initiation of court proceedings leading to the removal (constructive or physical) of the child, the worker must determine if the ward would have been eligible sometime within the six months before the month in which the petition was filed. During the month of court proceedings (or within the six preceding months), the ward must have been:

1. Receiving an ADC grant; or
2. Eligible to receive an ADC grant if an application had been made.
{Effective 02/23/04}

2-009.01A1 ADC Eligibility Requirements Effective July, 1996: The requirements include:

1. Income: The family's gross income must be equal to or less than 185 percent of the ADC standard of need for the family size.
2. Resources: The family's resources must have totaled \$10,000 or less.
3. Deprivation: The child must have been deprived of parental support or care because of a parent or caretaker relative's:
 - a. Death;
 - b. Continual absence from the home;
 - c. Physical or mental incapacity; or
 - d. Partial or total unemployment.

{Effective 02/23/04}

2-009.01A1a Parental Deprivation: The child must have been deprived of parental support or care because of a parent's:

1. Death, if the remaining parent has not remarried;
2. Continued absence from the home;
3. Physical or mental incapacity of a parent in a two-parent family: A physical or mental incapacity is defined as any physical or mental illness, impairment, or defect which is so severe as to substantially reduce or eliminate the parent's ability to provide support or care for a child(ren). The incapacity must be expected to last at least 30 days. Deprivation may be based on either parent's incapacity; or
4. Partial or total unemployment of the principal wage earner in a two-parent family. See 479-000-324 for further guidelines for unemployment.

{Effective 6/8/98}

2-009.01A1b Living in the Home of a Parent or Relative: The child must have been living in the home of his/her parent or relative. Relatives with whom the child could have been living include father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, second cousin, nephew, or niece. These relatives may be half blood, related by adoption, or from a preceding generation as denoted by prefixes of grand, great, great-great, or great-great-great. The relative may also be the spouse of any persons previously named even after the marriage has been terminated by death or divorce.

If the child was not living in the home of a parent or relative, see 479 NAC 2-009.01A2a.

{Effective 6/8/98}

2-009.01A1c Income: The computation of need based on income is a two-step process. The unit's countable income is compared to 185 percent of the ADC standard of need that was in effect in July, 1996 (see 479-000-204 for the 185 percent chart).

{Effective 6/8/98}

2-009.01A1c(1) Allowable Disregards: After the unit passes the 185 percent test, the following disregards are deducted from the gross earned income:

1. A \$90 work allowance is allowed for each employed person for expenses incurred in producing income.
2. \$30 plus 1/3 of the balance of gross earnings is disregarded for each employed person.
3. See 479-000-326 for disregards for self-employment.

Note: If the child was living with relatives other than his or her parents, eligibility is based on the child's income only.

See 479-000-325 for the list of excluded income.

{Effective 6/8/98}

2-009.01A1c(2) Age Requirement for a Dependent Child: An individual is considered a dependent child beginning with the first day of the mother's third trimester of pregnancy through the month of the child's 18th birthday. An 18-year-old is considered a dependent child if s/he is a full time student regularly attending school other than college, and if s/he is expected to complete the program by the time s/he reaches age 19.

{Effective 6/8/98}

2-009.01A1c(3) Resources: The total value of available countable resources cannot exceed \$10,000. Available resources include cash or other liquid assets or any type of real or personal property or interest in property that the individual owns and may convert into cash to be used for support and maintenance. See 479-000-325 for the list of excluded resources.

{Effective 02/23/04}

2-009.01A2 No Active ADC Case: If there was no active ADC case at the time the petition was filed that led to the child's physical or constructive removal from the home, the eligibility worker must determine from information on the application if the ward would have been eligible to receive ADC in the month of court proceedings or within six months of court proceedings if an application for ADC had been made.

If information is not received from the parents within ten days, the eligibility worker notifies the protection and safety worker. If it is not possible to determine eligibility for federal funds from the service case, payment is made from non-IV-E funds. If information is received at a later date, the worker goes back to determine ADC eligibility.

If the ward would have been eligible for ADC, the funding is changed to IV-E effective the first of the month following the month that IV-E eligibility is determined.

If a ward is physically or constructively removed from the home of a specified relative other than the parent, the parent's income and resources are not considered in determining the ward's eligibility for ADC in the month of judicial determination. Only income and resources actually available to the ward are taken into account in determining the ward's eligibility.

{Effective 02/23/04}

2-009.01A2a Not Living in Specified Relative's Home: If the ward was not living in a specified relative's home during the month in which the petition was filed that led to the child's physical or constructive removal from the home, the ward must have lived with a specified relative sometime within the six months before the month in which the petition was filed. The worker must determine if the ward would have been eligible for ADC in the month in which the petition was filed that led to the child's physical or constructive removal from the home if s/he had been living with the specified relative that month. For the list of specified relatives, see 479 NAC 2-009.01A1b.

{Effective 02/23/04}

2-009.01A3 Review of Deprivation: At the time of the annual review, the worker must review the home situation. For examples of continued deprivation, see 479-000-327.

{Effective 6/8/98}

2-009.01B Custody of the Child: To be eligible for IV-E, the ward must have been placed in foster care by court order, voluntary placement, or voluntary relinquishment (see 479 NAC 2-009.01B1 through 2-009.01B3).

2-009.01B1 Placement by Court Order: Payment may be made from IV-E funds if a ward has been physically or constructively removed from the home of a specified relative (see 479 NAC 2-009.01B1a) by a court. It may be a county, district, separate juvenile, or Indian tribal court.

The court order must state that:

1. Continuation in the home would be contrary to the welfare of the child, or that placement would be in the best interest of the child.

The "contrary to the welfare determination" must be in the first court ruling sanctioning the removal of a child from home. If the determination regarding "contrary to the welfare" is not made in the first court ruling pertaining to the removal, the child is not eligible for IV-E for the duration of that stay in foster care. The order must be child specific and detail why the child cannot remain in the home.

If the judicial determination references an exhibit in part or whole, the exhibit must be attached to the order regarding the removal. Nunc pro tunc orders or affidavits cannot be used.

2. Reasonable efforts:
 - a. Were made to prevent or eliminate the need for removal;
 - b. Were not possible because an emergency situation existed which indicated it was not in the child's best interests to prevent removal;
 - c. Are currently being made to reunite the child with his/her family; or

A judicial determination of reasonable efforts must be made no later than 60 days from the date the child is removed. The finding must be child specific and detail why the child cannot remain in the home.

If a judicial determination is not made within 60 days of the date of removal, the child is not eligible for IV-E for the duration of that stay in foster care.

- d. Reasonable efforts were not required because a court of competent jurisdiction determined that:
 - (1) The parent of the ward subjected the ward to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse;
 - (2) The parent of the ward has:
 - (a) Committed first or second degree murder of another child of the parent;
 - (b) Committed voluntary manslaughter of another child of the parent;

- (c) Aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the ward or another child of the parent; or
- (d) Committed a felony assault which resulted in serious bodily injury to the ward or another minor child of the parent; or
- (3) The parental rights of the parent to a sibling of the ward have been terminated involuntarily.

A judicial determination of reasonable efforts to finalize a permanency plan must be made within 12 months of the child's entry into foster care and within every subsequent 12 months while the child is in foster care.

If no judicial finding regarding reasonable efforts to finalize a permanency plan is made, the child becomes ineligible for IV-E from the end of the 12th month following the date the child entered foster care. The child remains ineligible for IV-E until a judicial determination to finalize a permanency plan is made.

Nunc pro tunc orders or affidavits cannot be used.

{Effective 02/23/04}

2-009.01B1a Permanency Hearing: A permanency hearing must be held within 12 months of a child's entry into foster care and subsequently every 12 months thereafter. When the court finds reasonable efforts are not required, a permanency hearing must be held within 30 days of that determination.

A permanency hearing must be a full hearing, not a paper review. The court must approve the child's permanency plan, which may be one of the following:

- 1. Reunification;
- 2. Adoption;
- 3. Legal guardianship; or
- 4. Another planned permanent living arrangement, which may include
 - a. Long term foster care;
 - b. Independent living;
 - c. Self-sufficiency with supports.

{Effective 02/23/04}

2-009.01B1b Child's Return Home and Subsequent Removal: If a child is returned to the home and subsequently removed after six months or more, it is considered a new placement. There must be a new court order and a new determination of deprivation.

{Effective 02/23/04}

2-009.01B2 Placement by Voluntary Placement Agreement: Payment may be made for up to 180 days from IV-E funds if a ward is placed in the Department's custody by a voluntary placement agreement (see 479 NAC 2-001.01A3). IV-E payment must be discontinued if by the 180th day there is not a court order stating that continued placement of the child outside his/her home is in the child's best interests.

A reasonable effort requirement is not required.

2-009.01B3 Placement by Voluntary Relinquishment: A child must be in the custody of the Department by means of a court order at the time of voluntary relinquishment to be eligible for payment from IV-E funds. If the child is not in the Department's custody at the time of the relinquishment, payment is made from child welfare funds.

2-009.01C Residing in a Licensed or Approved Home: To receive payment, a ward must be in a licensed child care institution (see 479 NAC 1-004), licensed group home, or a licensed foster home. The ward must not be in a detention facility or any facility operated primarily for youth who have been determined to be delinquent.

Note: A biological parent is not eligible for IV-E foster care.
{Effective 02/23/04}

2-009.01D Age Requirement: The ward is eligible for IV-E through the entire month of his/her 19th birthday if s/he is a full-time student regularly attending a secondary school, or the equivalent level of vocational or technical training (this does not include college) and reasonably expected to complete the program before reaching age 19. An 18 year old is IV-E eligible through the month of graduation from high school or the equivalent level of vocational or technical training. Assistance for an 18 year old who has completed high school and who is in a vocational training program that will be completed before s/he reaches age 19 is funded from child welfare.

2-009.01D1 Definition of a Student: A student is an individual who is:

1. Age 17 or younger and attending a school, college or university or a course of vocational or technical training designed to fit him/her for gainful employment, and includes a participant in the Job Corps Program; or

Note: Assistance for child who is not yet age 18 is paid from child welfare funds while the child is attending a college or university until the month of his/her 18th birthday.

2. Age 18, registered full time, and regularly attending a secondary school (or the equivalent level of vocational or technical training) and reasonably expected to complete the program before his/her 19th birthday.

Note: Assistance for an 18 year old who is attending a college or university is paid from child welfare funds.

2-009.01D2 Continued Enrollment: The worker must consider enrollment as continued through normal periods of class attendance, vacation, and recess unless the student graduates, drops out, is suspended or expelled, or does not intend to register for the next normal school term (excluding summer school).

2-009.01E Citizenship and Alien Status: A ward is eligible for IV-E if s/he is:

1. A citizen of the United States; or
2. An alien lawfully admitted for permanent residence.

Any individual who is born in the United States is considered a U.S. citizen. This includes children whose parents are not U.S. citizens, such as illegal alien parents or parents with student visas.

Receipt of SSI is sufficient proof of citizenship or lawfully admitted alien status.

{Effective 6/8/98}

2-009.01E1 Verification of Alien Status: When a ward is an alien, the worker must obtain verification.

For further verification procedures, see 479-000-300 and 479-000-309.

Assistance must not be delayed, denied, or discontinued while awaiting verification. Until verification is received, the ward is non-IV-E.